MONTANA LEGISLATIVE HISTORY

Chapter 88 19 79

Bill H 39 S _____ Original bill & history ____C

H. Committee on Business & Industry			S. Committee on Business & Industry		
Hearing Date(s)	Jan 12	✓ C	Hearing Date(s)	Mar 01	✓ C
	_____	____C		_____	____C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	Jan 12	✓ C		Mar 01	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HOUSE BILL NO. 39

INTRODUCED BY _____

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO CREDIT TRANSACTIONS; AMENDING SECTIONS 31-1-231, 31-1-243, 31-1-301, 31-2-218, 31-2-224, AND 31-2-226, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 31-1-231, MCA, is amended to read:

"31-1-231. Requirements of retail installment contracts. (1) Each retail installment contract shall be in writing, ~~shall be~~ signed by both the buyer and the seller, and ~~shall be~~ completed as to all essential provisions prior to the signing of the contract by the buyer. However, if a retail installment transaction is a sale of goods other than a motor vehicle where no title, lien, or other security interest is retained or taken by the seller, then the retail installment contract need not be contained in a single document. In such case, if the contract is contained in more than one document, then one such document may be an original document executed by the retail buyer applicable to purchases of goods or services to be made by the retail buyer from time to time, and in such case such document, together with the sales slip, account book, or other written statement relating to each purchase, shall set forth all of the information required by this section and shall constitute the retail installment contract for each such purchase.

(2) The printed portion of the contract, other than instructions for completion, shall be in at least 8-point type. The contract shall contain the following notice in a size equal to at least 10-point bold type:

"1. Notice to the buyer. Do not sign this contract before you read it or if it contains any blank spaces.

2. You are entitled to an exact copy of the contract you sign.

3. Under the law, you have the right to pay off in advance the full amount due and to obtain a partial refund of the finance charge."

(3) If the contract covers the sale of a motor vehicle, it shall also contain, in a size equal to at least 10-point bold type, a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included if that is the case.

(4) The contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer, and a description of the goods sold or services

furnished or to be furnished and shall clearly state and describe any collateral security taken for the buyer's obligation.

(5) The contract shall contain the following items:

(a) the cash sale price of the goods or services;

(b) the amount of the buyer's down payment and whether made in money or goods or partly in money and partly in goods, including a brief description of the goods traded in;

(c) the difference between items (a) and (b);

(d) the amount, if any, included for insurance and other benefits if a separate charge is made therefor, specifying the types of coverage and benefits;

(e) the amount of official fees;

(f) the principal balance which is the sum of items (c), (d), and (e);

(g) the amount of the finance charge;

(h) the total amount of the time balance, stated as one sum in dollars and cents, which is the sum of items (f) and (g), payable in installments by the buyer to the seller;

(i) the number of installments;

(j) the amount of each installment; and

(k) the due date or period ~~thereof~~ of installments.

(6) The items in (5) need not be stated in the sequence or order set forth, and additional items may be included to explain the computations made in determining the

amount to be paid by the buyer.

(7) No retail installment contract ~~shall~~ may be signed by any party thereto when it contains blank spaces to be filled in after it has been signed, except that if delivery of the goods is not made at the time of the execution of the contract, the identifying numbers or marks of the goods or similar information and the due date of the first installment may be inserted in the contract after its execution. The buyer's written acknowledgment, conforming to the requirements of 31-1-232, of delivery of a copy of a contract shall, in any action or proceeding by or against a holder of the contract without knowledge to the contrary when he purchases the contract, be conclusive proof:

(a) of such delivery;

(b) that the contract when signed did not contain any blank spaces except as herein provided; and

(c) of compliance with 31-1-231 through 31-1-236."

Section 2. Section 31-1-243, MCA, is amended to read:

"31-1-243. Refinancing retail installment contract. The holder of a contract, upon request by the buyer, may extend the scheduled due date of all or any part of any installment or installments or defer payment or payments or renew or restate the unpaid time balance of such contract, the amount of the installments, and the time schedule therefor and may collect for such extension, deferment,

renewal, or restatement a refinance charge~~--computed--as follows:~~. The holder may compute the refinance charge on the unpaid time balance to be extended, deferrad, renewed, or restated by adding to such unpaid time balance the cost for any insurance and other benefits incidental to the refinancing plus any accrued delinquency and collection charges, after deducting any refund which may be due the buyer as for a prepayment pursuant to 31-1-242 at the rate of the finance charge specified in 31-1-241(1) and by reclassifying in the case of motor vehicles by its then year model for the term of the refinancing agreement but otherwise subject to the provisions of this part governing computation of the original finance charge. The provisions of this part relating to minimum finance charges under 31-1-241(2) ~~and-an-acquisition-cost-under-31-1-242~~ shall not apply in calculating refinance charges on the contract extended, deferred, renewed, or restated. If all unpaid installments are deferred for not more than 2 months, the holder may at his election charge and collect for such deferment an amount equal to the difference between the refund required for prepayment in full under 31-1-242 as of the scheduled due date of the first deferred installment and the refund required for prepayment in full as of 1 month prior to said date, times the number of months in which no scheduled payment is made."

Section 3. Section 31-1-301, MCA, is amended to read:

"31-1-301. Wage brokers to procure license and give bond. ~~From-and--after--February--27,--1911,--no~~ No person, company, corporation, or association ~~shall~~ may establish or conduct the business of wage broker within the state ~~of~~ Montana unless such person, company, corporation, or association ~~shall-have-first--procured~~ procures a license from the proper authorities ~~as-herein-provided~~ and ~~shall have-executed~~ executes a bond in such sum as ~~said~~ the authorities may require for the faithful carrying out of the provisions of this part and of the ordinances of any town or city in which ~~such~~ the business may be carried on."

Section 4. Section 31-2-218, MCA, is amended to read:

"31-2-218. Assignment of real property. When an assignment for the benefit of creditors embraces real property, it is subject to the provisions of ~~[73-201-through 73-205],-as-well-as-to-those-of~~ this part, 70-21-102, and Title 70, chapter 21, part 3."

Section 5. Section 31-2-224, MCA, is amended to read:

"31-2-224. Power of court. The court shall have power to:

(1) authorize the business of the assignor to be conducted for a limited period by assignee, if necessary in the best interests of the estate, and allow additional compensation for such services;

(2) reopen estates when it appears they were closed before being fully administered and for that purpose to appoint another assignee who will take title to the property not administered upon;

(3) direct upon the final settlement of the estate that the assignee pay to the lawful creditors their proportionate dividend, notwithstanding their claim has not been presented in accordance with the notice sent out by the assignee, provided that 4 months have not elapsed since the first publication of notice to creditors;

(4) approve the final report and discharge the assignee and his surety from all further liabilities upon matters included in the accounting to creditors appearing and to creditors not having appeared after due citation or not having presented their claims after due advertisement."

Section 6. Section 31-2-226, MCA, is amended to read:

"31-2-226. Accounting of assignee. After 6 months from the date of an assignment for the benefit of creditors, the assignee may be required, on petition of any creditor, to ~~account in the manner prescribed by [Title 93]~~ make an accounting before the district court of the county where the accompanying inventory was filed."

-End-

January 12, 1979
46th Legislative Session

The Business & Industry Committee held a meeting on January 12, 1979, at 8:00 am in room 437. Chairman Joe Quilici called the meeting to order and the secretary called the roll. Rep. Ellerd was absent, all other members were present.

Chairman Quilici opened the meeting to a hearing on HB 19.

Rep. Manning, sponsor of HB 19, introduced Wayne Budt; proponent for the PSC. Mr. Budt explained the purpose of the bill to the committee. Chairman Quilici asked for any discussion or questions from the committee.

There were no opponents for HB 19. Mr. Budt closed HB 19.

Chairman Quilici opened the meeting to a hearing on HB 89.

Rep. Burnett, sponsor of HB 89, explained the bill to the committee. Rep. Burnett asked that HB 89 be given to a sub-committee. There were no other proponents present.

Mr. Ed Sheehy Jr., representing the Montana Savings and Loan League, the Montana Manufactured Housing Asso. and the Montana asso. of Life Underwriters, gave opposing testimony on HB 89. Mr. Sheehy said that the bill does not clearly define it's purpose and that the Savings and Loan League was also in favor of a sub-committee.

The committee discussed the bill at this time. Chairman Quilici asked Mr. Burnett if he could get information on what kind of type should be used, before the bill be put into a sub-committee.

Chairman Quilici called for questions from the committee at this time.

Hearing was closed on HB 89 and opened on HB 39.

Rep. Manuel, sponsor, gave an introduction to HB 39. He then introduced Dave Kogley, proponent for HB 39. Mr. Kogley works with the recodification efforts and he explained the proposed amendments to the committee. There were NO OPPONENTS to HB 39 and no questions from the committee at this time.

Chairman Quilici closed the hearing on HB 39 and turned the Chairman seat over to Vice-Chairman Vincent.

Rep. Vincent opened to a hearing on HB 21.

Chief sponsor Rep. Quilici, explained the bill to the committee. He then introduced Eileen Shore, staff attorney for the Public Service Commission, who explained the body of the bill to the committee. Ms. Shore passed out printed testimony from the PSC to the members of the committee. (see exhibit "A")

Chairman Quilici opened the meeting to executive session at 10:00 a.m.

Action taken on HB 92..,

Rep. Vincent made a motion that HB 92 be amended as follows;
Page 2, line 12 , strike "save" insert "render"
The motion was seconded by Rep. Shelden. Questions were called for by the Chairman. No questions. A vote was taken and motion to amend was unanimous.

Rep. Cooney made a motion that HB 92 DO PASS AS AMENDED, the motion was seconded by Rep. Nathe. Chairman asked for discussion or questions from the committee. No discussion or questions. Vote was taken and carried unanimousely that HB 92 DO PASS AS AMENDED.

Rep. Vincent moved that HB 92 be placed on the Consent Calendar. The motion was seconded by Rep. Robbins. Questions were called for by the Chairman. No questions. A vote was taken and the motion to place HB 92 on the Consent Calendar carried unanimously.

Action taken on HB 39...

Rep Cooney made a motion that HB 39 DO PASS. The motion was seconded by Rep. Metcalf. Chairman called for discussion or questions from the committee. No questions. A vote was taken and passed unanimously that HB 39 DO PASS. Rep. Cooney made a motion that HB 39 be placed on the Consent Calender. Chairman called for discussion. The motion was seconded by Rep. Tropila. A vote was taken and carried unanimously that HB 39 be placed on the Consent Calendar.

Action taken on HB 19...

Rep. Cooney made a motion that HB 19 DO PASS. Chairman called for discussion from the committee. None; motion was seconded by Rep. Metcalf. Chairman called for questions. No questions. A vote was taken and carried unanimously that HB 19 DO PASS. Rep. Cooney made a motion that HB 19 be placed on the Consent Calender. Chairman called for discussion from the committee. None; the motion was seconded by Rep. Metcalf. A vote was taken and carried unanimously that HB 19 be placed on the Consent Calender.

Action taken on HB 89...

Chairman Quilici put HB 89 into a sub-committee, members to be announced at a later meeting.

Action taken on HB 21...

Rep. Harper made a motion to amend the title of HB 21. Rep. Stobie said that he would like the amendment written up as it would read

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AUG 1 0 1979

OF MONTANA

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

MARCH 1, 1979

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 10:00 a.m.

ROLL CALL: All members were present with the exception of Senator William Lowe who was excused.

HOUSE BILL 92: Chairman Hazelbaker called on Representative Hershel Robbins, sponsor of House Bill 92, to explain the bill to the Committee. This bill is an act to revise and clarify laws relating to the issuance of duplicate bonds, warrants, and coupons; amending sections 7-7-2104 and 7-7-2106, MCA; and repealing section 7-7-2105, MCA.

PROPONENTS OF HOUSE BILL 92: Representative Robbins called on Judith Carlson, representing SRS, to explain the bill further to the Committee.

There were no other proponents or opponents present at the hearing.

There was a question and answer period from the Committee, after which Chairman Hazelbaker closed the hearing on House Bill 92.

DISPOSITION OF HOUSE BILL 92: Senator Goodover moved that House Bill 92 be concurred in. Senator Dover seconded the motion. Senator Regan moved that House Bill 92 be placed on the Consent Calendar. The Committee voted unanimously that HOUSE BILL 92 BE CONCURRED IN and placed on the Consent Calendar.

Senator Goodover will carry House Bill 92 on the floor.

HOUSE BILL 39: This bill is by request of the Code Commissioner. This bill generally revises and clarifies the law relating to credit transactions.

PROPONENTS OF HOUSE BILL 39: Representative Manuel, sponsor of HB 39 was unable to be present at the hearing, so Chairman Hazelbaker called on Mr. David Cogley of the Legislative Council to explain the bill to the Committee. Mr. Cogley went through changes in the bill with the Committee.

There were no other proponents or opponents to House Bill 39 present at the hearing.

DISPOSITION OF HOUSE BILL 39: Senator Dover moved that House Bill 39 be concurred in. The Committee voted unanimously that HOUSE BILL 39 BE CONCURRED IN and be placed on the Consent Calendar.

Senator Dover will carry House Bill 39 on the floor.

STANDING COMMITTEE REPORT

March 1, 19 79

MR. President:

We, your committee on Business and Industry

having had under consideration House Bill No. 39

Respectfully report as follows: That House Bill No. 39

was unanimously passed and was unanimously placed on the Consent Calendar.

BE CONCURRED IN

Chairman.

STATE PUB. CO.
Helena, Mont.

CATHERINE GRAHAM
CHAIRMAN

FRANK HAZELBAKER
VICE CHAIRMAN

CHET BLAYLOCK

PAT M. GOODOVER

DIANA S. DOWLING
EXECUTIVE DIRECTOR
CODE COMMISSIONER

ELEANOR ECK
ADMINISTRATIVE ASSISTANT

ROBERTA MOODY
DIRECTOR, LEGISLATIVE SERVICES

Montana Legislative Council
State Capitol
Helena, 59601
(406) 449-3064

HOUSE MEMBERS
JOHN B. DRISCOLL
OSCAR KVAALEN
J.D. LYNCH
ROBERT L. MARKS
H. DAVID COGLEY
DIRECTOR, LEGAL SERVICES
ROBERT PERSON
DIRECTOR, RESEARCH

LC 0031

1979 Legislature
Code Commissioner Bill - Summary

H Bill No. 39

TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO CREDIT TRANSACTIONS AND RELATIONSHIPS; AMENDING 31-1-231, 31-1-243, 31-1-301, 31-2-218, 31-2-224, and 31-2-226.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 31-1-231. The proposed amendment clarifies the meaning of 31-1-231(5)(k) by specifically requiring retail installment contracts to state the period of installments.

Section 2. 31-1-243. The proposed amendment deletes the reference to "an acquisition cost under 31-1-242". There is no mention of an "acquisition cost" in 31-1-242.

Section 3. 31-1-301. In R.C.M. 1947 the statute read "from and after the passage of this act." Recodification required the deletion of "this act". The proposed amendment eliminates the phrase "From and after February 27, 1911" as temporary and unnecessary. Also minor grammatical changes.

Section 4. 31-2-218. In recodification, former R.C.M. sections 73-201 through 73-204 were placed in 70-21-102 and in part 3, Chapter 21 of Title 70 of the MCA. Amendment is required because other former R.C.M. sections (16-2908, 39-132, 73-206, and 73-213) are also included in part 3, Chapter 21 of Title 70. Thus the reference to part 3, Chapter 21 of Title 70 is not an accurate statement of existing law. The proposed amendment would not change substantive law.

Section 5. 31-2-224. "upon" is deleted as redundant.

Section 6. 31-2-226. The reference "in the manner prescribed by [title 93]" is deleted because there is no procedure in the former Title 93 for an accounting by an assignee of an assignment for the benefit of creditors. The method and procedure is left to the discretion of the district court.

HOUSE BILL NO. 39

INTRODUCED BY MANUEL

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO CREDIT TRANSACTIONS; AMENDING SECTIONS 31-1-231, 31-1-243, 31-1-301, 31-2-218, 31-2-224, AND 31-2-226, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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"31-1-231. Requirements of retail installment contracts. (1) Each retail installment contract shall be in writing, ~~shall--be~~ signed by both the buyer and the seller, and ~~shall--be~~ completed as to all essential provisions prior to the signing of the contract by the buyer. However, if a retail installment transaction is a sale of goods other than a motor vehicle where no title, lien, or other security interest is retained or taken by the seller, then the retail installment contract need not be contained in a single document. In such case, if the contract is contained in more than one document, then one such document may be an original document executed by the retail buyer applicable to purchases of goods or services to be made by the retail buyer from time to time, and in such case such document, together with the sales slip, account book, or other written statement relating to each purchase, shall set forth all of the information required by this section and shall constitute the retail installment contract for each such purchase.

(2) The printed portion of the contract, other than instructions for completion, shall be in at least 8-point type. The contract shall contain the following notice in a size equal to at least 10-point bold type:

"1. Notice to the buyer. Do not sign this contract before you read it or if it contains any blank spaces.

2. You are entitled to an exact copy of the contract you sign.

3. Under the law, you have the right to pay off in advance the full amount due and to obtain a partial refund of the finance charge."

(3) If the contract covers the sale of a motor vehicle, it shall also contain, in a size equal to at least 10-point bold type, a specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included if that is the case.

(4) The contract shall contain the names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer, and a description of the goods sold or services

REFERENCE BILL

furnished or to be furnished and shall clearly state and describe any collateral security taken for the buyer's obligation.

(5) The contract shall contain the following items:

(a) the cash sale price of the goods or services;

(b) the amount of the buyer's down payment and whether made in money or goods or partly in money and partly in goods, including a brief description of the goods traded in;

(c) the difference between items (a) and (b);

(d) the amount, if any, included for insurance and other benefits if a separate charge is made therefor, specifying the types of coverage and benefits;

(e) the amount of official fees;

(f) the principal balance which is the sum of items (c), (d), and (e);

(g) the amount of the finance charge;

(h) the total amount of the time balance, stated as one sum in dollars and cents, which is the sum of items (f) and (g), payable in installments by the buyer to the seller;

(i) the number of installments;

(j) the amount of each installment; and

(k) the due date or period ~~thereof~~ of installments.

(6) The items in (5) need not be stated in the sequence or order set forth~~;~~ and additional items may be included to explain the computations made in determining the

amount to be paid by the buyer.

(7) No retail installment contract ~~shall~~ may be signed by any party thereto when it contains blank spaces to be filled in after it has been signed, except that if delivery of the goods is not made at the time of the execution of the contract, the identifying numbers or marks of the goods or similar information and the due date of the first installment may be inserted in the contract after its execution. The buyer's written acknowledgment, conforming to the requirements of 31-1-232, of delivery of a copy of a contract shall, in any action or proceeding by or against a holder of the contract without knowledge to the contrary when he purchases the contract, be conclusive proof:

(a) of such delivery;

(b) that the contract when signed did not contain any blank spaces except as herein provided; and

(c) of compliance with 31-1-231 through 31-1-236."

Section 2. Section 31-1-243, MCA, is amended to read:

"31-1-243. Refinancing retail installment contract. The holder of a contract, upon request by the buyer, may extend the scheduled due date of all or any part of any installment or installments or defer payment or payments or renew or restate the unpaid time balance of such contract, the amount of the installments, and the time schedule therefor and may collect for such extension, deferment,

renewal, or restatement a refinance charge--~~computed as follows:~~ The holder may compute the refinance charge on the unpaid time balance to be extended, deferred, renewed, or restated by adding to such unpaid time balance the cost for any insurance and other benefits incidental to the refinancing plus any accrued delinquency and collection charges, after deducting any refund which may be due the buyer as for a prepayment pursuant to 31-1-242 at the rate of the finance charge specified in 31-1-241(1) and by reclassifying in the case of motor vehicles by its then year model for the term of the refinancing agreement but otherwise subject to the provisions of this part governing computation of the original finance charge. The provisions of this part relating to minimum finance charges under 31-1-241(2) ~~and on acquisition cost under 31-1-242~~ shall not apply in calculating refinance charges on the contract extended, deferred, renewed, or restated. If all unpaid installments are deferred for not more than 2 months, the holder may at his election charge and collect for such deferment an amount equal to the difference between the refund required for prepayment in full under 31-1-242 as of the scheduled due date of the first deferred installment and the refund required for prepayment in full as of 1 month prior to said date, times the number of months in which no scheduled payment is made."

Section 3. Section 31-1-301, MCA, is amended to read:

"31-1-301. Wage brokers to procure license and give bond. ~~From and after February 27, 1911,~~ no No person, company, corporation, or association ~~shall~~ may establish or conduct the business of wage broker within the state of ~~Montana~~ unless such person, company, corporation, or association ~~shall have first procured~~ procures a license from the proper authorities ~~as herein provided~~ and ~~shall have executed~~ executes a bond in such sum as ~~said~~ the authorities may require for the faithful carrying out of the provisions of this part and of the ordinances of any town or city in which ~~such~~ the business may be carried on."

Section 4. Section 31-2-218, MCA, is amended to read:

"31-2-218. Assignment of real property. When an assignment for the benefit of creditors embraces real property, it is subject to the provisions of ~~[73-201 through 73-205], as well as to those of~~ this part, 70-21-102, and Title 70, chapter 21, part 3."

Section 5. Section 31-2-224, MCA, is amended to read:

"31-2-224. Power of court. The court shall have power to:

(1) authorize the business of the assignor to be conducted for a limited period by assignee, if necessary in the best interests of the estate, and allow additional compensation for such services;

(2) reopen estates when it appears they were closed before being fully administered and for that purpose to appoint another assignee who will take title to the property not administered upon;

(3) direct upon the final settlement of the estate that the assignee pay to the lawful creditors their proportionate dividend, notwithstanding their claim has not been presented in accordance with the notice sent out by the assignee, provided that 4 months have not elapsed since the first publication of notice to creditors;

(4) approve the final report and discharge the assignee and his surety from all further liabilities upon matters included in the accounting to creditors appearing and to creditors not having appeared after due citation or not having presented their claims after due advertisement."

Section 6. Section 31-2-226, MCA, is amended to read:

"31-2-226. Accounting of assignee. After 6 months from the date of an assignment for the benefit of creditors, the assignee may be required, on petition of any creditor, to ~~account--in--the--manner--prescribed--by--[Title-93]~~ make an accounting before the district court of the county where the accompanying inventory was filed."

-End-